



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

JAN - 3 2006

Mr. Jim Lamanna
President
BP Pipelines (North America) Inc.
28100 Torch Parkway
Warrenville, IL 60555

Re: CPF No. 3-2004-5014

Dear Mr. Lamanna:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$5,500. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Mr. Ivan Huntoon
Director, Central Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)
)
BP Pipelines (North America) Inc.,)
)
Respondent.)
)

FINAL ORDER

On August 25-29, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an on-site pipeline safety inspection of Respondent's Cushing to Chicago (CCPS) pipeline facilities and records. As a result of the inspection, the Director, Central Region, PHMSA, issued to Respondent, by letter dated May 5, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$5,500 for the alleged violations.

Respondent responded to the Notice by letter dated June 17, 2004 (Response). Respondent did not contest the allegations of violation, but it provided information concerning the corrective actions it has taken and requested that the proposed civil penalty be reduced. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.410(c) (Notice Item 1) – failing to provide line marking at the six specified locations where the line is above ground in areas that are accessible to the public; and

49 C.F.R. § 195.428 – (Notice Item 3) failing to inspect and test the incoming pressure relief valve at the Flanagan Station in 2002.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

With respect to Item 1, the Notice proposed a civil penalty of \$4,500 for Respondent's failure to provide line marking at the six specified locations where the line is above ground in areas that are accessible to the public. Ensuring that lines are properly marked is an important part of pipeline safety and damage prevention. Failing to place line markers at above-ground spans can impede the public's ability to inform the operator of any pipeline problem that may arise and hamper incident response. Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, I assess Respondent a civil penalty of \$4,500 for violating 49 C.F.R. § 195.410(c).

With respect to Item 3, the Notice proposed a civil penalty of \$1,000 for Respondent's failure to inspect and test the incoming relief valve at the Flanagan Station in 2002. Pipeline operators are required to inspect and test each pressure relief valve at least once each calendar year at an interval not to exceed 15 months. Timely inspection and testing of overpressure devices is an important part of pipeline safety because these devices protect the pipeline from surges and overpressure conditions that could cause a failure incident and threaten the public, property, or the environment. Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, I assess Respondent a civil penalty of \$1,000 for violating 49 C.F.R. § 195.428.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$5,500.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation

Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

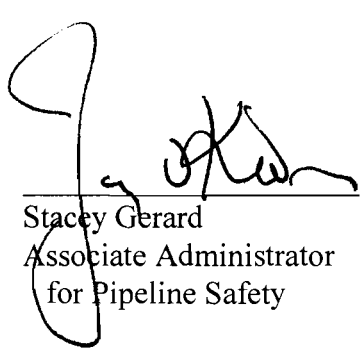
Failure to pay the \$5,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

WARNING ITEMS

The Notice did not propose a civil penalty or compliance order for Items 2 and 4 in the Notice. Therefore, these are considered warning items. The warnings were for Respondent's failure to adequately inspect surface conditions along the pipeline right-of-way in accordance with § 195.412, and failure to address atmospheric corrosion at two locations in accordance with § 195.583. Respondent presented information in its response showing that it has initiated actions to address these items. Respondent is warned that if these items are not fully addressed, enforcement action will be taken if a subsequent inspection reveals a violation.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, the petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of a petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective on receipt.


Stacey Gerard
Associate Administrator
for Pipeline Safety

JAN - 3 2006

Date Issued